

b) using word of mouth recruiting which has an adverse disparate impact on Black applicants;

c) engaging in a pattern or practice of unlawfully failing to hire non-Hispanic applicants for positions in its facilities;

d) using word of mouth recruiting which has an adverse disparate impact on non-Hispanic applicants; and

e) advertising a preference for Spanish speakers which has an adverse disparate impact on Black and non-Hispanic applicants.

JURISDICTION AND VENUE

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

3. The unlawful employment practices alleged in this complaint were committed within the jurisdiction of the United States District Court for the Southern District of Texas, Houston Division. Venue is appropriate in this court.

PARTIES

4. Plaintiff, the Equal Employment Opportunity Commission (the “Commission”), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Sections 706(f)(1) and (3).

5. At all relevant times, Defendant Lawler Foods, Inc., a Nevada corporation, has continuously been doing business in the State of Texas and has continuously had at least 15 employees. Defendant Lawler Foods, Inc. may be served with process through its registered agent, Blumbergexcelsior Corporate Services, 10 Bodie Dr., Carson City, NV 89706.

6. At all relevant times, Defendant Lawler Foods, LTD., a Texas limited liability company, has continuously been doing business in the State of Texas and has continuously had at least 15 employees. Defendant Lawler Foods, LTD, may be served with process through its registered agent, Lawler Real Estate, Inc., 14 Golf Links Court, Kingwood, Texas 77339.

7. At all relevant times, Defendants Lawler Foods, Inc. and Lawler Foods, LTD., hereafter Defendants, have continuously been employers engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e (b), (g) and (h).

STATEMENT OF CLAIMS

8. More than thirty days prior to the institution of this lawsuit, charges were filed with the Commission by Subrena Tarver, Ernie Tarver and Priscilla Menefee, alleging violations of Title VII by Defendant Lawler Foods LTD. As regard Defendants, all conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least 2007, Defendants have engaged in unlawful employment practices at their facilities, in violation of Sections 703(a), 703(k) and 704 of Title VII, 42 U.S.C. §§ 2000e-2(a), 2000e-2(k) and 2000e-3(a), respectively.

10. These unlawful practices include but are not limited to the following

a) Defendants have unlawfully failed to hire qualified Black and non-Hispanics for jobs at its Houston area facilities since at least 2007, including but not limited to entry level production, laborer and operative jobs.

b) Defendants have told non-Hispanic applicants for employment that they would not be hired because they are Black or not Hispanic. For example, Defendants told two Black applicants that the company was not interested in hiring Blacks or people like them. Defendants told at least one White applicant that he would not be hired because he was not Hispanic.

c) Defendants have told applicants for employment that they would not be hired because they do not speak Spanish.

d) One of Defendants' hiring officials stated he subconsciously rejected Black applicants in favor of Hispanic employees who spoke Spanish.

e) Defendants have discouraged Black and other non-Hispanic job seekers from applying for Defendants' jobs by advertising a preference for Spanish-speaking employees in local newspapers.

f) Defendants have relied largely on word of mouth recruiting to fill vacant jobs with full knowledge that this practice has perpetuated a largely Hispanic workforce.

g) Defendants' hiring for the period from January 2007 onward reveals a statistically significant shortfall in the hiring of Blacks and non-Hispanics.

h) Since 2007 or earlier until the date of the filing of this Complaint, more than eighty percent of Defendants' hires have been Hispanics, even though Hispanics account for a much lower proportion of the available labor force in laborer and operative positions.

i) Since 2007, Defendants have falsely informed Black and non-Hispanic applicants that Defendants are not hiring and/or that Defendants' representatives will contact these applicants to advise them of the status of their respective applications and/or to schedule interviews for them.

j) Defendants have hired Hispanic applicants who were less qualified than many Black and non-Hispanic applicants. The qualified Black and other non-Hispanic applicants include but are not limited to Subrena Tarver, Ernie Tarver, Priscilla Menefee, and others listed in Exhibit A.

11. Since at least 2007, or earlier, Defendants have engaged in unlawful employment policies and practices that adversely impact Blacks and non-Hispanics in violation of Section

703(a) of Title VII, 42 U.S.C. §2000e-2(a). These unlawful policies and practices include but are not limited to the following:

a) Defendants use word of mouth referrals as one of their primary methods of hiring into production, laborer and operative jobs. This employment practice has created an adverse disparate impact on Blacks and non-Hispanics. Many Hispanic applicants indicated on their applications that they were referred by a current employee, but very few, if any, non-Hispanics so indicated. Many more Hispanics applied for jobs with Defendants than would be expected based on the demographics of the local labor market for laborer and operative jobs. Respondent's practice of relying largely on word of mouth referrals excludes Blacks and non-Hispanics from employment at statistically significant rates.

b) Whenever Defendants advertise for job vacancies in local newspapers, Defendants advertise a preference for Spanish-speaking applicants. This employment practice has created a disparate impact on Blacks and non-Hispanics. This practice disproportionately excludes Blacks and non-Hispanics at statistically significant rates.

c) Neither employment practice described in this paragraph is job-related or consistent with business necessity.

12. The Commission has identified over 200 Black and other non-Hispanic applicants who were not hired, including Subrena Tarver, Ernie Tarver, Priscilla Menefee and others listed in Exhibit A.

13. The effect of the practices complained of in paragraphs 10 and 11 above has been to deprive Blacks and non-Hispanics of equal employment opportunities and otherwise adversely affect their status as applicants because of their race and national origin.

14. The unlawful employment acts, omissions and practices complained of in paragraph 10 above are intentional.

15. The unlawful employment practices complained of in paragraph 10 above have been and are done with malice or with reckless indifference to the federally protected rights of Blacks and other non-Hispanic applicants and job-seekers.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants, their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, from engaging in discrimination based on race and national origin.

B. Order Defendants to institute and carry out policies, practices, and programs which provide equal employment opportunities for Blacks and non-Hispanics, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendants to make whole Blacks and non-Hispanics harmed by the practices described above by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to rightful-place hiring of qualified Blacks and non-Hispanics.

D. Order Defendants to make whole Blacks and non-Hispanics harmed by the practices described above by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 10 and 11 above, including back pay losses and job search expenses, in amounts to be determined at trial.

E. Order Defendants to make whole Blacks and non-Hispanics harmed by the practices described above by providing compensation for past and future non-pecuniary losses

resulting from the unlawful practices complained of in paragraph 10 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendants to pay Blacks and non-Hispanics harmed by the practices described above punitive damages for the malicious and reckless conduct described in paragraph 10 in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

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Deputy General Counsel

Gwendolyn Young Reams
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Equal Employment Opportunity
Commission
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/s/ Rudy L. Sustaita

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EXHIBIT A

| Last Name | First Name |
|------------------|-------------------|
| Adams | Alston |
| Adams | John |
| Adams, Jr. | Darryl |
| Alberto | Jerome |
| Anthony | Carolyn |
| Antoine | Yolanda |
| Baker | Joseph |
| Batiste | Angelica |
| Baxter | Suzanne |
| Benish | Marc |
| Berry | Shirley |
| Beusch | Donald |
| Bonton | Arieian |
| Bourrage | Harold |
| Bowman | Kenneth |
| Boyd | James |
| Boydston | Rebecca |
| Brown | Ebony |
| Brown | Willie |
| Bryan | Shannon |
| Buchanan | Anthony |
| Burton | Beau |
| Butler | Quincy |
| Cabiness, Jr. | Rodney |
| Carter | Thomas |
| Carter | William |
| Celeste | Nelvin |
| Chaisson | Lamarcus |
| Chapman | Kathleen |
| Chapman | Michael |
| Clark | Jennifer |
| Cochrane | Michael |
| Cock | James |
| Cockrell | Le'Darrell |
| Coffman | Kenneth |
| Copaus | Ryan |
| Corbello | Marty |
| Cornner | Jonathan |
| Cox | Genevieve |
| Crawford | Albert |
| Crosby | James |
| Cupples | Dennis |

| | |
|--------------|-------------|
| Curry | Alicia |
| Davis | Christopher |
| Davis | LaPrince |
| DeWalt, Jr. | Melvin |
| DiPerna | Ryan |
| Douet | Jared |
| Earhart | Justin |
| Edwards | James |
| Espangel | Williander |
| Evans | Demetrius |
| Evans | Jermaine |
| Evins | Tanya |
| Fields | Karen |
| Fiti | Sarfy |
| Ford | Gregory |
| Franklin | Renwick |
| Freeman | Dalphine |
| Furnace | Brandon |
| Gant | Isaiah |
| Gibbons, III | Leo |
| Gibson | Joshua |
| Gonzales | Antonio |
| Grant | Latashea |
| Grettenberg | Joshua |
| Hamlett | Demontron |
| Hansome | Vickie |
| Hatfield | Robert |
| Heim | Serena |
| Henderson | Asa |
| Henderson | Janet |
| Henderson | Takashamiya |
| Hendrix | Ezekiel |
| Henry, IV | Abraham |
| Hicks | Brandon |
| Hicks | Kyle |
| Hines | Christopher |
| Holloway | Bryan |
| Holmes | Daniel |
| Huddleston | Marcus |
| Hunt | Ronald |
| Hurst | Thyer |
| Ingais | McQuinn |
| Ingais | Melphy |
| Jackson | Chauvan |
| Jackson | McKenzley |
| Jenkins | Cindy |
| Jenkins | Madison |

| | |
|--------------------------|----------|
| Jewell | Zachery |
| Johnson | Bobby |
| Johnson | Clinton |
| Johnson | Melanie |
| Johnson | Selwyn |
| Jones | Charles |
| Jones | Curtis |
| Jorden | Alicia |
| Joubert | Michael |
| Kay | Donna |
| Kelly | Henry |
| Kemebra or Kenebrew, Jr. | Lawrence |
| Kilby | Keith |
| Kilby | Michael |
| Kim | Calvin |
| Lechich | Hope |
| Lee | Joshua |
| Lewis | Robert |
| Little | David |
| Long | Johnny |
| Lucas | Haley |
| Mapp | Valencia |
| Markowski | Brandon |
| Martin | Derrick |
| Martin | Dorrian |
| Massingill | Margaret |
| Mathewson | Brian |
| McCarty, Jr. | Norman |
| McCoy | Andrea |
| McCurley | Kristy |
| McGary | Kevin |
| McKinney | Bettye |
| McMullins | James |
| McQueen | Patrice |
| Metiao | Lorraine |
| Miller | Elisa |
| Miller | Landrus |
| Mitchell | Jamielle |
| Moore | Jennifer |
| Moore | Vivica |
| Morgan | Jake |
| Norman | Michael |
| Noto | Lanny |
| Nunn | Jeremy |
| Olvera | Kristi |
| Parker | Stephene |
| Parks | Anthony |

| | |
|----------------|------------------|
| Passmore | Ashley |
| Paul | Percy |
| Paxton | Justin |
| Peacock | Michael |
| Peoples | Steven |
| Pettway | Felix |
| Pillias | Gloria |
| Pipkin | Krystal |
| Poland | John |
| Polk | Tirrell |
| Porchia | Marcus |
| Pratt | Renelle |
| Reagan | Travis |
| Reaux | Jaterah |
| Rideoux-Rogers | Jarrold |
| Roberts | Eddie |
| Roderick | Haley |
| Rogers | LaTonya |
| Rosson | Kimber |
| Ruda | Makario |
| Russell | Heather |
| Ruda | Sitorina |
| Sargent | Joshua |
| Saucier | Jenny aka Jennie |
| Saucier | Steven |
| Seals | Edward |
| Shepard | James |
| Sherman | Ernest |
| Simien | Danny |
| Singleton | Emmitt |
| Smith | Christopher |
| Smith | Jeffrey |
| Smith | Nicole |
| Speed | Deonathan |
| Standridge | David |
| Starks | Sarah |
| Stevenson | Mark |
| Stowe | Sarah |
| Stringfellow | Angela |
| Stringfellow | Stephanie |
| Sykes | Douglas |
| Talbutt | Ryan |
| Tallos | Brian |
| Taylor | Dalona |
| Tellis | Andre |
| Terry | Christian |
| Therdgood | Charlie |

| | |
|-----------------|-----------|
| Thomas | Cal |
| Thomas | Michael |
| Thompson | Lionel |
| Tomas | Jonell |
| Toran | Eric |
| Trishell | Vontre |
| Tucker | John B. |
| Tucker | John M. |
| Tullos | Rose |
| Turner | Lykeshia |
| Turner | Shirley |
| Vanderborgh | Raymond |
| Vaughan | James |
| Vaval | Humaine |
| Walls | Joshua |
| Walters | Eric |
| Ward | Sammy |
| Washington | Shanika |
| Washington, Jr. | Edward |
| Weatherford | Bobby |
| Wesley | Henry |
| White | Angela |
| White | Keysha |
| Whitehead | Brandon |
| Williams | Britney |
| Williams | Thomas |
| Young | Crystal |
| Young | Johnathan |